United Nations S/2010/115

Security Council

Distr.: General
4 March 2010
English
Original: French

Letter dated 3 March 2010 addressed to the President of the Security Council by the Permanent Representative of Chad to the United Nations

I have the honour to inform you that the Government of Chad has reconsidered its decision requesting the withdrawal from Chad of the United Nations Mission in the Central African Republic and Chad (MINURCAT).

The Government of Chad agrees to a technical extension of the mandate of the Mission for a two-month period beginning 16 March 2010.

Taking into account the new context in the region and the capacity of Chad to provide better security in eastern Chad, the Government of Chad wishes to express its availability for consultations with the Secretary-General to plan for the future of MINURCAT, in particular the reduction of the military component, while maintaining the civilian component as needed.

The Government of Chad would be grateful if you would circulate the present letter as a document of the Security Council.

(*Signed*) Ahmad **Allam-mi**
Ambassador
Permanent Representative

10-25933 (E) 040310 040310

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United Nations S/2010/116

Security Council

Distr.: General
8 March 2010

Original: English

Letter dated 1 March 2010 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

I have the honour to transmit a copy of a letter addressed to the Secretary-General of the United Nations, Ban Ki-moon (see annex), and a petition with 118,000 signatures, in electronic form, from the E-SMART Campaign (Eritrean Sanctions Must Be Annulled Today), a project of the Organization of Eritrean Americans, in response to resolution 1907 (2009).*

I should be grateful if this letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Araya **Desta**
Ambassador
Permanent Representative

* The electronic version of the petition is available in the Secretariat.

10-26316 (E) 190310

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Annex to the letter dated 1 March 2010 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

On Wednesday 23rd December 2009, the United Nations Security Council (UNSC) imposed sanctions against Eritrea, which include an arms embargo, travel restrictions and a freeze on the assets of its political and military leaders.

Resolution 1907(2009) was passed on the basis of two accusation: 1) That Eritrea offers financial, political and logistical support to elements that oppose the Transitional Federal Government of Somalia. 2) That Eritrea has failed to comply with Security Council requests to engage with Djibouti to resolve a border dispute.

Lack of Evidence

Resolution 1907(2009) was passed despite a telling absence of credible evidence to support the allegations that were made against Eritrea. The consistent request by the government of Eritrea for hard evidence to support the accusations has been totally ignored. Resolution 1907(2009) is unfair and unjust in that it was based on charges long been proven to be untrue. The allegations are unfounded, fabricated, orchestrated, and pushed by adversaries of Eritrea. The root of the charges is initiated by the U.N. Somalia Monitoring Group going to 2006. At the time the Monitoring Group accused Eritrea of sending 2000 troops to fight alongside the Somali insurgents. However, this turned out to be totally false when Ethiopia invaded Somalia. Furthermore, the plane that Eritrea was supposed to have used to transport weapons and fighters to Somalia turned out to be another fabrication; the plane was found crashed in Uganda while being used by DynCorp, a contractor for the US military and intelligence service. The UN Secretary-General's Special Representative for Somalia, Mr. Ahmedou Ould-Abdallah, has also publicly admitted that there is no evidence linking Eritrea to the Monitoring Group's charges.

On the other hand, the Security Council has ample evidence that show Ethiopia, Kenya, and Uganda as being the main suppliers of arms to Somalia. According to the U.N. Security Council's Somalia sanctions committee, "elements of the African Union peacekeeping mission in Somalia known as AMISOM, and Somalia's Transitional Federal Government (TFG)" are involved in arms trafficking activities." Furthermore, South African Ambassador to the United Nations, Dumisani Kumalo, chairman of the U.N. Security Council's Somalia Sanctions Committee, reported to the Security Council, May of 2008, at a time when the report that has

now been used as a basis to accuse Eritrea was being prepared, that 80% ammunition available at the Somali arms markets was supplied by TFG and Ethiopian troops. The Committee also reported of getting "details of some 25 military flights by Ethiopia into Somalia and knew that Ethiopian troops had brought military equipment into the country to arm friendly clans."

The UN Security Council, having passed a resolution condemning the increase in the flow of weapons to Somalia in contravention of the arms embargo imposed in 1992, it endorsed the United States call for the embargo to be lifted so that they can supply weapons to the TFG and the Somali's war lords. The US had supplied tones of weapons by its own admission with most of it ending up in the hands of the insurgents due to desertions. Amnesty International had also confirmed, on the 21st of January 2010, that US shipment of arms to the Transitional Federal Government is being used to commit war crimes and human rights abuses in Somalia.

Furthermore, a member of the current Somali government is quoted by, Jon Lee Anderson, in the New Yorker Magazine of December 14, 2009 saying: "*Finally we appealed to Allah. We asked him to give us oil, so as to interest the Americans, or else we said, we need a couple of fighters from Afghanistan. So now the Somali's have a weapon: We are a staging ground for the fight against global terrorism. After so many years, with our piracy and our jihad we are finally able to project fear.*" At the same time, Herman Cohen, a former US Assistant Secretary for African Affairs had told this to PBS in 2006, "*Ethiopia is feeding false intelligence about terrorists being hidden and that sort of thing because the Ethiopians are deadly afraid of Moslem control. So they want to keep the Islamists out of power, and they will bring the U.S. into it, if they can.*"

The accusation against Eritrea therefore is based on unfounded assumptions and perceptions, and not on concrete evidences. The independent experts of the United Nations have not concluded their work on the alleged violation of the arms embargo on Somalia. Yet, the decision to sanction on Eritrea based on lies shows that it is indeed a politically motivated intended to exert pressure on Eritrea for extraneous objectives.

Targeting Eritrea

Whilst the UN Arms Monitoring Group made equal allegations against eight other countries relating to the violation of the Somali Arms Embargo, only Eritrea has been targeted for sanctions. This further demonstrates that the decision is neither proportionate nor just.

Violation of Eritrea's Right to Self Defence (Article 2 and Article 51)

The description of the allegation against Eritrea by the UN Security Council has changed from "providing arms" to the insurgency to "providing political, financial, and logistical support. The dropping of the accusation of "supplying arms" from the final resolution implies that the Security Council has no credible evidence to support the accusation. If that is the case, why does then the sanctions include arms embargo? This again proves that the decision was a predetermined

outcome no matter what the facts were on the ground. To impose an arms embargo at a time when the country is on a war footing with Ethiopia and is being at a continuous threat from terrorist organizations trained and armed by Ethiopia is a reckless undertaking primarily designed to endanger the security of the country and its people.

The arms embargo violates Eritrea's inherent right to self-defence, one of the most basic rights of any state, under Articles 2 and 51 of the U.N. Charter, to protect its territorial integrity and political independence. By imposing an arms embargo on Eritrea and thereby preventing it from defending its territory and population from Ethiopia's aggression and occupation, the Security Council has clearly violated its own Charter.

Invasion of Somalia

The invasion and occupation of Somalia has resulted in the greatest humanitarian emergency in Somalia, has cost the lives of thousands of Somalis, has damaged Somali infrastructures such as schools, Mosques, bridges, hospitals and markets and Ethiopian and TNG forces have committed international crimes in Somalia. A number of countries, notably Ethiopia sent troops to Mogadishu in contravention of UN Security Council Resolution 1725(2006).

Eritrea did not create the Somali problem. All what Eritrea wants is peace, stability and unity to prevail in Somalia. Eritrea has not invaded Somalia. Eritrea has no interest in destabilizing Somalia, nor does it have any benefit from a destabilized Somalia. It has not violated the Arms embargo imposed in 1992. Others have. It is therefore absurd that Eritrea is targeted although it has repeatedly told the UNSC that it has not supplied any weapons to the Somalis.

The Djibouti Case

With regards to the conflict with Djibouti, Eritrea's stated position is that there should be bilateral efforts at clarifying and solving any issues. On failure of bilateral efforts, Eritrea has clearly expressed a willingness to resolve any outstanding matter legally. Considering failure of the UN Security Council, to shoulder its legal responsibilities as guarantors of the Algiers agreement and considering further that the Eritrean-Ethiopian border issue is the single most destabilizing factor in the region, it is not surprising that Eritrea's faith in the goodwill or offices of third parties, who have no clear mandate, is exhausted and that it should prefer a legal process as a last resort. Such a stance is a clear and just commitment to peaceful co-existence and cannot possibly merit sanctions by any stretch of the imagination short of one that undermines basic justice.

Eritrea has not occupied even a square inch of Djibouti territory. To the contrary, Eritrea had appealed to the Security Council on April 22, 2009, few weeks before the unwarranted campaign against Eritrea started, stating that Ethiopia had built a network of winding roads up the mount, and deployed offensive, long-range, artillery and heavy equipment directed at Eritrea with the

apparent knowledge and acquiescence of Ethiopia's major backers. For anyone who is familiar with the geography of the area, the potential threat for Eritrea is clear. Ethiopia is being allowed to move long-range artillery and heavy equipment into Musa Ali which is a stone throw from the Eritrean port of Assab and Ethiopia's obsession has long been how to occupy the port of Assab. It is under this potential threat that Eritrea is being asked to withdraw from its own territory. Furthermore Mt. Musa Ali is located at the trilateral junction (Djibouti, Eritrea and Ethiopia).

Hence, the Djibouti-Eritrea border issue should not be looked in isolation. On one hand, there is the EEBC demarcation decision, which is accepted by Eritrea but rejected by Ethiopia, and on the other hand, there is this fabricated Djibouti - Eritrea territorial dispute. Instead of looking at all the issues holistically, and exercising a multi-pronged diplomacy, the UNSC is only interested on the Djibouti – Eritrean border conflict and has remained silent on the Eritrean-Ethiopian border issue. In the Horn, everything is linked. If the unmistakable US favouritism of Ethiopia was tempered by fairness, justice and pragmatic considerations, a holistic solution should have been sought for. This was indeed time for the Security Council to show credibility and achieve a durable solution. If truth is to be told, the entanglement with Djibouti is a creation/fabrication with the purpose of diverting Eritrea's pursuit to insure Ethiopia's eviction from its sovereign territories in accordance with the final and binding determinations of the EEBC. Needless to say, the peoples of the region are now left with unhelpful and unhealthy situations.

IGAD and the AU Call for Sanction

It has been reported that the UNSC passed the Resolution in response to the call by the AU and IGAD for sanctions to be imposed on Eritrea. We must remind you that the AU peace and security council meeting that initiated this call against Eritrea was chaired by Ethiopia where the call for sanction on Eritrea was passed against the expressed concern of the AU Chairman. The regional organizations that were claimed to be the source for this initiative IGAD and the Africa Union Peace and Security Council called for this action under the chairmanship of Ethiopia when the meetings were held inside Ethiopia. These decisions were orchestrated by Ethiopia who served as the Chair of the Peace and Security Council when the decision against Eritrea was made. Not surprisingly, it was also Ethiopia that Chaired the IGAD meeting when that entity decided to call for sanctions against Eritrea. Eritrea is denied of attending AU meeting in Ethiopia.

Eritrea – Ethiopia Border Conflict

It is important at this stage to remind you that both the Ethiopian and Eritrean governments had agreed and signed a peace agreement guaranteed by the UN, to accept the conclusions of the independent EEBC delimitation and demarcation decisions as final and binding. The UN Security Council was mandated to take "the necessary political, diplomatic, economic and military measures" against the party that refused implementation in line with Chapter 7 of the UN charter. However we haven't seen UN action against Ethiopia for violating the ruling of the

independent EEBC and for refusing to be bound by international law with respect to the boundary conflict. Despite Ethiopia's continued violations of international law and norms that constituting a grave danger to international peace and security, no sanctions, a threat of sanctions or even genuine pressure that has been applied against Ethiopia by the UN or by the other guarantor organizations and nations of the Algiers Peace Agreement.

In light of the Security Council's inability to enforce its own decisions and resolutions on the Eritrea-Ethiopia issue, its reluctance to enforce international law and the Eritrea Ethiopia Boundary Commission's (EEBC) final and binding delimitation and demarcation decisions, the Council decision to impose sanction on Eritrea in haste and without due deliberations and investigations shows how the Security Council has been used as an instrument of administering injustice against the people of Eritrea. The Security Council, if its interest is indeed a genuine peace and security in the Horn of Africa, it cannot simply forget the major danger of the region, Ethiopia's continued refusal to implement the EEBC decision. The Security Council has to remain seized of this grave matter.

It is baffling to note how the Eritrea –Djibouti issue is found to be a "threat to international peace", whilst occupation of sovereign Eritrean territories in violation of international law, the UN Charter and the Eritrea Ethiopia Boundary Commission's final and binding delimitation and demarcation decisions of 13 April 2002 and 30 November 2007 are purposefully ignored. We see the action or lack thereof by the UN on this matter as an encouragement of the Ethiopian government to continue occupying sovereign Eritrean territory.

Dear Secretary-General,

At this juncture, we would also like to remind you that Eritrea has been subjected to a series of UN injustices starting from the 1950. The UN passed a resolution 390 A(V) in 1950 to forcefully federate Eritrea with Ethiopia against the wishes of The Eritrean people. It is appropriate to state here what the then US Secretary of State, John Foster Dulles, candidly told the UN Security Council: "*From the point of view of justice, the opinions of the Eritrean people must receive considerations; nevertheless, the strategic interest of the United States in the Red Sea basin and considerations of security and world peace make it necessary that the country has to be linked to our ally, Ethiopia*". History has repeated itself.

In 1962, when the Eritrean Administration was dissolved by the Ethiopian in violation of UN 390 A(V) Resolution, the UN ignored the plight of Eritreans despite repeated calls for justice to be served.

The UNSC designed to foster peace and security in our world has now decided to rubber-stamp an ill-conceived plan to sanction Eritrea without any justification. The very institution that was supposed to secure peace and protect the weak has become a manifested tool of insecurity and instability by attacking the weak. Resolution 1907 is passed through conspiratorial closed-door

session of the two permanent members to take punitive measures against Eritrea. This resolution is also extremely reckless and it is bound to exacerbate the already tense relationship between the nations, leading to more conflicts in this war-ravaged region.

The implications of undermining the rule of law, justice and fair-play as the basis for international relations has far reaching and profoundly negative implications. It is a sad occasion when the UNSC is lured to take such a manifestly unjust resolution against Eritrea based on lies.

Our demand

On this day, the 22 of February 2009, we the undersigned, members of the Eritrean Communities in Europe, the people of the Horn of Africa and peace loving friends of Eritrea, submit this petition and stage a demonstration in Canberra (Australia), Geneva (Switzerland), and San Francisco and Washington, DC (United States of America) to call on the United Nations to immediately repeal the unjust, unfair and illegal sanctions imposed on Eritrea.

We call on the UN to shoulder its responsibility as a guarantor of the Algiers Agreement to do whatever it takes to make Ethiopia vacate sovereign Eritrean territories it is occupying illegally in breach of international law and its treaty obligation.

We call on the UN to exercise a fair and just practice in evaluating all of the facts and evidence to find a lasting peaceful solution to the problems in the Horn of Africa, and should not be swayed by those who have an axe to grind against Eritrea.

We remain seized of the matter.

Yours sincerely,

Freweini Tekeste

Freweini Tekeste
Co-Chair, Eritrean-SMART Campaign

ATTACHMENT 1

Source: United Nations Department of Public Information (DPI)

Date: 29 May 2009

Impunity in Somalia was a major factor maintaining a long-running "genocide in motion" in that Horn of Africa country, the Special Representative of the Secretary-General emphasized to correspondents at a Headquarters news conference this afternoon. "People who have killed, displaced and maimed are still around, whether in Somalia, Nairobi or in their new country home," Ahmedou Ould-Abdallah said, adding that many who stayed inside Somalia to continue the violence had put their families in safe havens outside the country.

Mr. Ould-Abdallah, who was in New York for consultations at Headquarters, stressed that it was the willingness of anti-Government forces to keep fighting, whether for profit, power or other reasons, that was devastating the country, not the threat of an Ethiopian return or the illegitimacy of the authorities. The Government might be weak, he said, but it had as strong a claim to legitimacy as most African Governments, overturning it by force would defy Security Council resolutions.

Before last year's Djibouti Agreement, which facilitated the departure of Ethiopian troops, it was claimed that the foreign presence was prolonging the conflict, he said. After they withdrew, however, the fighting had continued, and he knew of no evidence of continued Ethiopian presence. "This is a diversion from the real problem," he said. "Somalis have to stop killing Somalis and reject any alibis."

As for the support of Eritrea for the Islamist group al-Shabab, he said that there was much talk of such involvement, but there was no way for him to monitor that situation or to know the truth of such a claim. Asked about other foreign rebel fighters, he said the rebel leaders had extended a welcome to such fighters and there was wide information available on them.

When asked what safeguards were in place to make sure international payments to trained police forces in Somalia were not engendering abuse to civilians, Mr. Ould-Abdallah stressed how few trained police there were â€"- 2,700 â€"- in that large country in which civilians were being killed every day. Even those police had not been paid for 18 months.

To suggest that they should not be supported was irresponsible, he maintained. "The problem we face today is anarchy and disorder, and not to pay trained policemen because a few of them may have stolen or may have abused is unacceptable," he said.

On piracy, Mr. Ould-Abdallah said that that the international presence was beginning to show results, because the pirates had to go further afield for their quarry, over 100 pirates had been captured, and their financiers knew they were being watched. It was important that it be a truly international effort, he said, demonstrating to Somalis that there was international attention being paid to their tragic situation and showing that such efforts could actually work.

Asked about law of the sea issues, he said he was not aware of any connection between Norwegian oil companies and the joint submission for the delineation of the continental shelf made by Somalia and Kenya, assisted by Norway. He said he did know, however, that Norway had helped other African countries with their submissions, and that Somalia's was very similar to the ones made by France, Ireland, the United Kingdom and Spain.

Outlining upcoming political activities on Somalia, Mr. Ould-Abdallah said that he planned to be in London for an 8 June meeting with the British Foreign and Commonwealth Office, after which he would convene in Rome the International Contact Group on Somalia, of which he is the Chair, although that meeting might be postponed.

He also described contacts with the Intergovernmental Authority on Development (IGAD), an Africa regional economic group, which he said could play a role in the Somali crisis similar to that played by the Economic Community of West African States (ECOWAS) in the crises in Liberia and Sierra Leone.

ATTACHMENT 2

Ugandan Army Disturbed by Allegations of Peacekeepers Trafficking Arms in Somalia (VOA)

http://voanews.com/english/2008-05-23-voa45.cfm

23 May 2008

The spokesman for the Ugandan army, Major Paddy Ankunda, tells VOA that soldiers selected to participate in the African Union peacekeeping mission in Somalia, known as AMISOM, are the finest in the Ugandan military.

He says allegations that some of them may be involved in arms trafficking in the Somali capital Mogadishu have shocked senior officers in Kampala.

"We are all surprised by the allegations," said Ankunda. "We have not seen any evidence and we have not gotten that report formally. We highly doubt that any of the Ugandan members of that mission can [be] involved in those dealings. We highly doubt that and we hope there will be an investigation so that the truth can be told to the world."

The allegations were contained in a report submitted Thursday by South Africa's ambassador to the United Nations Dumisani Kumalo, who chairs the U.N. Security Council's Somalia sanctions committee.

Mr. Kumalo did not say the AMISOM troops in question were Ugandan or give details about their alleged activities. But for the first nine months of the peacekeeping mission, which began in March 2007, about 1,600 soldiers from Uganda made up the entire mission until several hundred troops from Burundi joined them in late December.

Mr. Kumalo said the committee have also received credible reports that the Ethiopian government and members of the secular Somali government it backs in Mogadishu are involved in illegal trafficking of arms. He said he had details of weapons being brought into Somalia by Ethiopia to arm clans perceived as being friendly to Addis Ababa.

Since Ethiopia ousted Somalia's Islamist movement from power nearly 17 months ago, Somali and Ethiopian troops have been battling Islamist-led insurgents determined to overthrow the transitional federal government.

South Africa's U.N. envoy said the committee supports a recommendation for an independent investigation of AMISOM, Somalia's interim government, and the Ethiopian government.

A year after factional leaders toppled Somali dictator Mohamed Siad Barre in 1991 and plunged the country into a civil war, the United Nations imposed an arms embargo on Somalia. But the embargo has been repeatedly violated.

U.N. monitors are currently investigating a link between piracy, which is rampant off Somalia's coast, and arms trafficking.

Kenya's seafarers' assistance program coordinator, Andrew Mwangura, confirms that hijackings sometimes occur because Somali pirates suspect the ships are carrying arms to rival factions.

Last week, Somali gunmen hijacked a Jordanian vessel they said was delivering arms to Somalia. The hijackers ordered the crew to open the cargo to verify the contents.

"Somali pirate groups are organized under warlords," said Mwangura. "There are so many warlords. So, maybe they had information that this ship was taking arms to a rival group."

When the hijackers discovered that the cargo was nothing more than sugar, Mwangura says the ship and its crew were held for ransom and released unharmed when the ransom was paid.

Peacekeepers sell arms to Somalis (BBC)

http://news.bbc.co.uk/2/hi/africa/7417435.stm

23 May 2008

Ugandan peacekeepers in Somalia have been selling arms to insurgents, a United Nations report says.

The report, by the UN monitoring group on the Somali arms embargo, says Ethiopia, Eritrea and Yemen are also breaking the embargo.

It cites one incident in which a group of Ugandan soldiers allegedly received $80,000 for a transaction.

Some peacekeepers are accused of setting up an arms trading network through translators.

The Ugandan army has already dismissed the accusations as "absolutely ridiculous."

Inquiry

The report says the soldiers received a wish-list of weapons from arms dealers and the weapons were then supplied from stores of equipment seized from insurgents.

The monitoring group says the weapons find their way back to the insurgent group they were captured from in the first place.

The report was presented to the UN Security Council by the head of the committee which has been monitoring the arms embargo, Dumisani Kumalo, who is South Africa's ambassador to the UN.

Mr Kumalo said there were grave concerns that some peacekeepers would do things to undermine the peace process.

The allegations have been sent to the Ugandan government, which has said it will carry out an inquiry.

The presence of Ethiopian troops in Somalia, backing the weak transitional government, also breaks the embargo, the report said.

The Ethiopians went into Somalia in 2006 to help oust Islamist forces which had taken control of Mogadishu.

Eritrea and Yemen are accused of backing the insurgents.

Somalia has been devastated by conflict since 1991 when former President Mohamed Siad Barre was ousted.

ATTACHMENT 3

CONTROLS ON MILITARY ASSISTANCE TO SOMALIA MUST BE TIGHTENED

Amnesty International 21 January 2010

Amnesty International has called for arms transfers to the Somali government to be suspended until there are adequate safeguards to prevent weapons from being used to commit war crimes and human rights abuses.

In its latest briefing paper on the country, Amnesty International details US shipments of arms, including mortars, ammunition and cash for the purchase of weapons to the Transitional Federal Government (TFG).

These transfers were made despite substantial risks that such types of weapons could be used in indiscriminate attacks by TFG forces, or diverted to armed groups opposed to the TFG, who also commit gross and widespread abuses.

"International concern for the future of the Somali government has not been matched by an equal concern for the human rights of civilians," said Michelle Kagari, Amnesty International Deputy Director for Africa.

"Mortar attacks continue to claim lives – it is time for international donors to apply tighter controls to their support for the government". Amnesty International's briefing also details growing international programmes of military and police training for TFG forces, despite a lack of adequate oversight procedures.

The training is delivered in Somalia itself and in Ethiopia, Kenya, Djibouti and Uganda. The European Union, France, Germany and Italy are involved, or have pledged funding for it.

Amnesty International calls for all states providing, financing or planning military and police training for the TFG to provide training in international humanitarian law and on arms management. They should also press for the establishment of oversight procedures for TFG forces.

A UN arms embargo on Somalia has been in place since 1992 but states can apply to the UN Sanctions Committee for exemptions to supply security assistance to the Somali government.

Amnesty International is urging the committee to apply criteria for assessing the risk that exemptions to the arms embargo will contribute to war crimes and human rights abuses, and to deny authorizations on this basis.

To be effectively implemented, Amnesty International argues that such criteria need to be enshrined in international law and universally applied to all arms transfers. The organization calls on states to establish such common standards in an International Arms Trade Treaty.

Somalia has been mired in armed conflict since the collapse of the Siad Barre government in 1991. Conflict intensified and unlawful killings of civilians increased after Ethiopian troops entered Somalia at the end of 2006 to help the TFG fight against several armed opposition groups from whom it has been seeking to regain territorial control.

Despite a peace agreement between the TFG and one armed group, the appointment of a President issued from the former armed opposition and the withdrawal of Ethiopian troops from Somalia, armed opposition groups have continued attacks against the TFG. In May 2009, they launched a major offensive against the TFG, which currently only controls a small part of the capital Mogadishu.

In 2009, indiscriminate attacks by all parties to the armed conflict have resulted in thousands of civilians killed and hundreds of thousands displaced. The number of people internally displaced within Somalia is now 1.5 million and some 3.7 million are dependent on humanitarian assistance for their survival.

United Nations S/2010/117

Security Council

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8 March 2010

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Letter dated 4 March 2010 from the Chargé d'affaires a.i. of the Permanent Observer Mission of the African Union to the United Nations addressed to the President of the Security Council

On behalf of Ambassador Tete Antonio, Permanent Observer of the African Union to the United Nations, I have the honour to forward the following for your high attention:

- Report of the Chairperson of the Commission on the situation in Madagascar and the related communiqué issued by the African Union Peace and Security Council at its 216th meeting, held on 19 February 2010 in Addis Ababa, Ethiopia (see annexes I and II).

- Communiqué on the situation in the Republic of the Niger issued by the African Union Peace and Security Council at its 216th meeting, held on 19 February 2010 in Addis Ababa, Ethiopia (see annex III).

The African Union Commission wishes to request that these documents be circulated as a document of the Security Council.

(*Signed*) Alice A. **Mungwa**
Chargé d'affaires a.i.

10-26409 (E) 250310

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Annex I to the letter dated 4 March 2010 from the Chargé d'affaires a.i. of the Permanent Observer Mission of the African Union to the United Nations addressed to the President of the Security Council

[Original: English and French]

Report of the Chairperson of the Commission on the situation in Madagascar

I. INTRODUCTION

1. Since the eruption of the crisis in Madagascar and the unconstitutional change that occurred in that country on 17 March 2009, when the President of the Republic, Marc Ravalomanana, under pressure from the civilian opposition and the army, resigned from office and handed power to a Military Directorate which, in turn, transferred the power to Andry Rajoelina, Council has examined the situation in that country on several occasions, namely: 16 March 2009 (179th meeting), 17 March 2009 (180th meeting), 20 March 2009 (181st meeting), 21 August 2009 (200th meeting), 10 September 2009 (202nd meeting), 9 November 2009 (208th meeting) and 7 December 2009 (211th meeting). More specifically, the decisions taken at the aforementioned meetings focussed mainly on the following points:

- strong condemnation of the unconstitutional change of Government in Madagascar and the subsequent suspension of the country from participating in the activities of the African Union, in conformity with the Lomé Declaration of July 2000 and the AU Constitutive Act;

- demand for speedy return to constitutional order and Council's affirmation of its determination to take all the measures required to achieve the above objective, including the imposition of sanctions;

- support for the Maputo Agreements of 8 and 9 August 2009 and Addis Ababa Additional Act of 6 November 2009, including the expeditious establishment of the Monitoring Mechanism provided for under Article 12 of the Act; and

- appeal to the international community, particularly within the framework of the International Contact Group on Madagascar (ICG-M), to support AU position.

2. This report is submitted pursuant to Assembly Decision Assembly/AU/Dec 279 (XIV) Rev.1 on the Situation in Madagascar adopted by the 14th Ordinary Session of the Assembly of the Union held in Addis Ababa from 31 January to 2 February 2010, which requested Council to meet in due course to review the situation and take the required decisions in light of the relevant AU instruments. It provides an account of the process which led to the conclusion of the Maputo Agreements and the Addis Ababa Additional Act, as well as the difficulties encountered in their implementation. The report concludes with recommendations on the action that Council may wish to take in light of the current state of the process of resolving the crisis and restoring constitutional order in Madagascar.

II. CONCLUSION OF THE INTER-MALAGASY AGREEMENTS AND THE DEADLOCK IN THEIR IMPLEMENTATION

3. Council will recall that, in line with the decision on the Report of the Peace and Security Council on its activities and the State of Peace and Security in Africa [Assembly/AU/Dec 252 (XIII)], adopted by the 13th Ordinary Session of the Assembly of the Union held in Sirte from 1 to 3 July 2009, I convened the second consultative meeting of the ICG-M in Addis Ababa on 22 July 2009. On that occasion, the ICG-M stressed the urgent need for a rapid return to constitutional order, through a consensual process involving all the Malagasy political actors and based on the respect for the relevant provisions of the Constitution of the country. The ICG-M agreed on the convening, under the auspices of the AU, in Mozambique, of a meeting of the four Malagasy political camps represented by their respective *chefs de file*, namely, Marc Ravalomanana, Didier Ratsiraka, Albert Zafy and Andry Rajoelina, to find a consensual solution for a speedy return to constitutional order.

4. Pursuant to the decision of the second meeting of the ICG-M, the *chefs de file* of the Malagasy political camps met in Maputo from 5 to 9 August 2009. The meeting, which took place under AU auspices, was chaired by former President Joaquim Chissano, Head of the SADC Mediation Team, assisted by the Special Envoys of AU, OIF and UN. At that meeting, the *chefs de file*, among other things, adopted, on 8 and 9 August 2009, the Charter of the Transition, the Maputo Political Agreement, the Charter of Values and related agreements (the Maputo Agreements). They agreed, in particular, on a neutral, inclusive, peaceful and consensual transition which should not exceed 15 months starting from the date of the signing of the Maputo Agreements.

5. In the aftermath of the Maputo meeting, and in a context marked by difficulties in implementing the Agreements, the *de facto* authorities decided, on 8 September 2009, to form what was termed a Government "of National Unity" without the participation of the three other political camps that were signatories to the Maputo Agreements. Council, at its 202nd meeting held on 10 September 2009, expressed its deep concern at this development, stressed that the Charter of the Transition and the Maputo Agreements remained the consensual framework for a peaceful exit from the crisis, and called on the Malagasy parties to continue the inclusive dialogue for a consensual distribution of posts of responsibility within the institutions of the Transition.

6. On 6 October 2009, I convened the third meeting of the ICG-M in Antananarivo. At the end of its deliberations, the ICG-M, *inter alia*, noted with satisfaction the important developments that took place that very day, with the consensus on the following key positions, namely: President of the Transition – Andry Rajoelina; Vice President of the Transition – Dr. Emmanuel Rakotovahiny of the Zafy led Camp; Prime Minister, Head of the consensus Government – Eugène Mangalaza, proposed by the Ratsiraka camp; Congress of the Transition – Ravalomanana camp; High Council of the Transition (HCT) –Rajoelina camp; National Reconciliation Council – Prof. Albert Zafy; Economic and Social Council – Civil Society; Deputy Prime Minister – Ravalomanana camp; Deputy Prime Minister – Zafy camp; and Deputy Prime Minister – Rajoelina camp. While accepting Mr. Andry Rajoelina as President of the Transition,

the Ravalomanana camp, however, expressed strong objection to the latter contesting the next presidential elections. The ICG-M invited the Joint Mediation Team to, as soon as possible, convene a meeting of the *chefs de file* of the Malagasy political camps to find a consensual solution to the outstanding issues.

7. Following consultations between the Joint Mediation Team and the Malagasy parties concerned, it was agreed to convene in Addis Ababa, in November 2009, a meeting of the *chefs de file* of the political camps. Consequently, the *chefs de file* held their third meeting in Addis Ababa from 3 to 7 November 2009. On that occasion, they adopted the Additional Act to the Charter of the Transition (Addis Ababa Additional Act). That Act substantially modified certain provisions of the Charter of the Transition by, in particular, introducing the appointment of two co-Presidents for the Ravalomanana and Zafy camps, in place of the Vice-President agreed in Maputo; the President of the Transition and the co-Presidents form a Presidential Council on which specific responsibilities were conferred. The Prime Minister, Mr. Mangalaza, was confirmed in his post by the Addis Ababa Additional Act, which also assigned six ministerial portfolios to each of the four camps, and seven to "other Malagasy stakeholders". The *chefs de file* made a commitment to establish, under the auspices of AU, a Monitoring Mechanism which will also comprise SADC, OIF and the United Nations, the institutions guaranteeing the implementation of the various Agreements.

8. At its 208th meeting held in Addis Ababa on 9 November 2009, Council called on the political actors of Madagascar to scrupulously and in good faith implement the commitments made and urged the political camps to intensify their consultations to finalize, without delay, the consensual distribution of positions of responsibility within the Government of National Unity with a view to enable it to start functioning. Council requested me to rapidly establish the Monitoring Mechanism and to take the necessary steps to dispatch, in collaboration with other development partners of Madagascar, an assessment mission to evaluate Madagascar's electoral needs.

9. On 16 November 2009, I wrote to the Secretaries-General of the United Nations and the OIF, as well as the Executive Secretary of SADC, to indicate that, following the successful conclusion of the mission entrusted to the Joint Mediation, the support of the international community to the crisis exit process would henceforth be carried out through the Monitoring Mechanism. To this end, I requested my interlocutors to kindly take necessary steps to translate into deeds the contributions of their respective organizations to the rapid establishment of this Mechanism.

10. From 26 to 27 November 2009, and in pursuance of the Maputo Agreements, the Addis Ababa Additional Act and the aforementioned decision of Council, a joint AU/United Nations/Francophonie Mission, at the initiative of the Commission, proceeded to Antananarivo to assess the status of implementation of the commitments made by the Malagasy parties, identify the difficulties encountered and the measures to be taken to overcome them. The focus of the mission was also to discuss with all the parties concerned the modalities for rapid establishment of the monitoring Mechanism provided for in Article 12 of the Addis Ababa Additional Act. The mission observed that the momentum generated by the Addis Ababa

Additional Act had evaporated, giving way to distrust among the Malagasy parties, and that the process of implementing the Agreements concluded, in particular, the formation of a Government was faced with increasing difficulties.

11. At its 211th meeting held on 7 December 2009, Council expressed deep concern at the situation. It urgently appealed to all the political camps in Madagascar to demonstrate the political will needed to resolve the current impasse, in strict compliance with the Maputo Agreements and the Addis Ababa Additional Act, and place the superior interest of the country above any other consideration. Council took note of the steps that I had taken towards establishment of the Monitoring Mechanism. In this regard, it urged all relevant organizations, namely, SADC, OIF and the United Nations, to expeditiously appoint their representatives on the Monitoring Mechanism and to take all other steps required to facilitate its effective functioning. Council took note with satisfaction my intention to take advantage of the ICG-M to ensure continuous mobilization of the international community for a solution to the crisis.

12. From 4 to 9 December 2009, President Guebuza Armando Emilio, in his capacity as President of the SADC Organ on Politics, Defense and Security Cooperation, and former President Joaquim Chissano invited the *chefs de file* of the Malagasy political camps to another meeting in Maputo, with a view to resolving the outstanding issues. The President of the Transition, Mr. Andry Rajoelina, declined the invitation. At the meeting, the *chefs de file* of the three camps adopted "Resolutions on the Implementation of the Charter of the Transition and the Addis Ababa Additional Act on the Malagasy Transition". These Resolutions were rejected by the Rajoelina political camp, which described them as "a coup d'Etat". Subsequently, the *de facto* authorities adopted a series of unilateral measures concerning the conduct of the Transition, including the abrogation of the Charter of the Transition and dismissal of the consensus Prime Minister, Eugène Mangalaza, alleging that the implementation of the Maputo Agreements and the Addis Ababa Additional Act had become impossible.

III. EFFORTS TO RELAUNCH THE CRISIS EXIT PROCESS AND RELATED DEVELOPMENTS

13. In view of the deadlock, and after consultations with all the concerned players, I, on 6 January 2010, organized the 4th meeting of the ICG-M in Addis Ababa. The purpose of the meeting was to relaunch the process for a way out of the crisis in Madagascar and to agree on the measures to be taken in this regard.

14. The meeting reaffirmed the validity of the Maputo Agreements and the Addis Ababa Additional Act and gave its full support to my initiative to present to the Malagasy parties "compromise solutions" to the outstanding issues. It was agreed that these measures should focus all the institutions of the Transition, including the Government, and the organization of elections and should facilitate implementation of the Maputo Agreements and the Addis Ababa Additional Act. It was also agreed that I should rely on a consultative group of ICG-M experts to elaborate the afore-mentioned compromise solutions. The ICG urged the Malagasy parties to forward to the AU Commission, within two weeks, their reactions to the compromise solutions to be submitted to them and agreed to meet in Addis Ababa after submission by the Malagasy parties of their reactions.

15. The meeting of ICG-M experts took place as planned in Addis Ababa on 19 January 2010 to finalize the proposed compromise solutions to the outstanding issues. The solutions are rooted in the principle that the Maputo Agreements of 8 and 9 August 2009 and the 6 November 2009 and the Addis Ababa Additional Act, negotiated and signed by the four *chefs de file* of the political camps in Madagascar, constitute a decisive gain in the crisis exit process and a vital foundation for the conduct of an inclusive, consensual and as short as possible transition. The proposals focus particularly on the following points:

(i) The Transition and Institutional Matters: The document indicates that the Transition should end as quickly as possible and, in any case, should come to an end not later than November 2010. It also stipulates that the institutions provided for by the Maputo Agreements and the Addis Ababa Additional Act should be established and operationalized without delay.

While maintaining the roles and responsibilities of the President of the Transition, who shall exercise the functions of Head of State, and those of the co-Presidents as stipulated and defined by the Charter of the Transition and the Addis Ababa Additional Act, the document provides additional clarifications, particularly on the need for the President of the Transition to exercise his functions in the spirit of consensus and refrain from taking any decision that would engage the future of the country in the long term; vesting specific responsibilities on the co-Presidents on delegation of the President of the Transition; countersigning of the Acts of the President of the Transition made in the Council of Ministers; vacancy and inability to act; protocol precedence of the President of the Transition over the co-Presidents; and confirmation of the Prime Minister, Head of the Government of National Unity, Eugène Mangalaza, in his duties.

The document also contains, in Annex, proposals for the distribution of the Ministerial portfolios, in accordance with the distribution yardstick agreed in the Addis Ababa Additional Act.

(ii) Elections: The document stipulates that elections should be held within such timeframe as would ensure their credibility and transparency, as well as compliance with the time lines and modalities set forth in the Maputo Agreements and the Addis Ababa Additional Act. The Malagasy parties should, for their part, undertake to make the necessary political and technical choices in this regard and on the basis of the recommendations to be put forward by the international election assessment mission provided for by the Maputo Political Agreement and the Charter of the Transition.

In this connection, and bearing in mind that, according to the Charter of the Transition, three elections have to be organized (constitutional referendum, legislative elections and presidential elections) and in view of the urgency, the document proposes the following: organization, as speedily as possible, of a referendum to approve the Constitution in accordance with the Charter of the Transition, and organization of concurrent legislative and presidential elections not later than October 2010.

(iii) Confidence building measures: The document calls on the President of the Transition to take all the measures needed to implement the Maputo related Agreements and to promulgate and ensure publication in the Official Journal of Madagascar of the Amnesty Law as soon as this is ratified by the HCT and the Congress of the Transition at their respective first sessions in accordance with the provisions of the Charter of the Transition.

(iv) Monitoring Mechanism: The document reaffirms the provisions of the Addis Ababa Additional Act. It stipulates, *inter alia*, that the Malagasy parties should agree that possible disputes would be submitted by members of the Monitoring Mechanism to their respective organizations which would consult among themselves to implement a procedure to resolve the dispute.

16. I submitted the above proposals to the Malagasy parties during my visit to Madagascar from 21 to 22 January 2010 at the head of a delegation comprising the Commissioner for Peace and Security and representatives of ICG-M member institutions, including SADC, International Organization of the Francophonie (OIF), the Indian Ocean Commission (IOC) and the United Nations. In the course of that visit, I held talks with various Malagasy parties, in particular the President of the Transition, Andry Rajoelina; the co-Presidents of the Transition, Emmanuel Rakotovahiny and Fetison Rakoto Andrianirina; the Prime Minister, Head of the Consensus Government, Eugène Mangalaza; Colonel Camille Vital, the Prime Minister unilaterally appointed by the High Authority of the Transition; leaders of the four political camps in Madagascar; members of the Military Council for National Defence (MCND); the Alliance of Civil Society Organizations; the camp of religious leaders and other national personalities in Madagascar. I also held discussion with members of the local branch of ICG-M and the diplomatic corps.

17. In my interaction with the Malagasy parties, I emphasized the need for speedy implementation of the Maputo Agreements and the Additional Act of Addis Ababa and presented explanations and clarifications on the issues raised by my interlocutors. I expressed the hope that the Malagasy parties would demonstrate the spirit of responsibility and compromise required to overcome their difficulties and engage resolutely in a consensual and inclusive Transition leading to the organization of free and fair elections and the restoration of constitutional order in accordance with the inter-Malagasy Agreement and the doctrine of the African Union. The Ratsiraka, Zafy and Ravalomanana camps voiced their acceptance in principle of the measures proposed and promised to submit their formal reaction and their observations. The Rajoelina camp, for its part, indicated that the rest of the process should give premium to the expression of the will of the people through legislative elections.

18. Pursuant to the commitments made in Antananarivo, the Ratsiraka, Zafy and Ravalomanana camps submitted their observations to the AU Commission on 27, 28 and 30 January 2010, respectively. The Rajoelina camp submitted its observations on 5 February 2010. All these observations may be summarized as follows:

(i) The Transition and the Institutions

The Zafy led camp holds the view that the functions of the President of the Transition, as recognized in the Charter of the Transition and reiterated in the Addis Ababa Additional Act, are inordinate. It therefore presents a proposal for new and substantially reduced functions for the President of the Transition and for the consensus Prime Minister.

The Ravalomanana camp suggests that, in the event of the absence of the President of the Transition, an acting President should be decided by common agreement in the Presidential Council.

The Rajoelina camp questions the need to maintain the Presidential Council given the difficulties encountered, the exorbitant demands and requirements of the two co-Presidents, as well as their conduct and attitude. The camp also calls for the maintenance of Colonel Camille Vittal in his functions. Regarding the other institutions of the Transition, the Rajoelina camp is of the view that, given the budgetary constraints and the very short period of the Transition, the establishment of the aforementioned institutions, with the exception of the HCT, is no longer tenable.

(ii) Elections

The Zafy camp is not opposed to the concurrent holding of presidential elections and legislative elections as proposed in the document containing the compromise measures.

The Ratsiraka camp, for its part, holds that it is desirable that presidential elections precede the legislative elections.

As for the Ravalomanana camp, it is in favor of the electoral calendar as defined in the Charter of the Transition (i.e. a referendum followed by legislative elections and then by presidential elections).

The Rajoelina camp proposes that legislative elections be held as speedily as possible so that the level of the people's confidence in each of the concerned political players could be measured. It indicates that it accepts the establishment of an Independent National Electoral Commission composed mainly of representatives of the civil society with wide powers to organize and supervise elections.

(iii) Confidence Building Measures and Monitoring Mechanism

The different camps agree on the need to implement the confidence building measures set out in the document. The Rajoelina camp indicates that it is prepared to enact an amnesty edict prior to the legislative elections as well as an edict on immediate establishment of a monitoring mechanism.

(iv) Distribution of Ministerial Portfolios

The Ratsiraka camp has no objection regarding the distribution of Ministerial portfolios as proposed in the document on compromise measures.

The Ravalomanana and Zafy camps call for changes in the distribution of ministerial portfolios.

The Rajoelina camp calls for implementation of Article 4 of the Charter of the Transition which stipulates that "the President of the Transition shall appoint members of the Government on the advice of the Prime Minister".

19. The 14th Ordinary Session of the Assembly of the African Union discussed the situation in Madagascar and expressed deep concern over the continuing political crisis in the country. The Assembly stressed that the Maputo Agreement and the Addis Ababa Additional Act remain the only road map for a comprehensive solution to the Madagascar crisis. It urged the illegal regime in Madagascar to desist from attempts to impose unilateral solutions to the current crisis. The Assembly requested the AU and SADC to continue their collaboration to find a rapid solution to the crisis. It expressed its full support for the efforts deployed by former President Joaquim Chissano, took note of the proposal that I presented to the Malagasy parties and urged them to respond expeditiously to the said proposals.

20. Pursuant to the decision of the 14th Ordinary Session of the Assembly of the Union, the Commissioner for Peace and Security carried out a mission to Maputo from 10 to 14 February 2010 to coordinate efforts of the Africa Union and SADC aimed at speedy restoration of constitutional order in Madagascar. During that mission, Commissioner Lamamra held talks with President Armando Emilio Guebuza; former President Joaquim Chissano, Head of SADC Mediation Team; the Minister of Foreign Affairs and Cooperation, Oldemiro Júlio Marques Baloi as well as with the Executive Secretary of SADC, Dr. Tomaz A. Salomão. Commissioner Lamamra also held discussions with members of a Malagasy delegation from the Rajoelina camp led by Colonel Camille Vital. During the consultations, AU and SADC pointed out that the reaction of the Rajoelina camp to my proposals was not satisfactory and was below the expectations of the International community. They noted with regret that that this camp continues to persevere in its unilateral actions despite the urgent appeals directed to it for implementation of the Maputo Agreements and the Addis Ababa Additional Act.

IV. OBSERVATIONS

21. The crisis exit process has remained deadlocked nearly one year after the unconstitutional change of Government in Madagascar. The hopes generated by the Maputo Agreements and the Addis Ababa Additional Act, concluded following sustained efforts on the part of AU and SADC with the support of the international partners, are yet to materialize.

22. Responsibility for the difficulties encountered in the implementation of the Maputo Agreements and the Addis Ababa Additional Act is shared. Clearly, the Malagasy parties have not exhibited the foresight and flexibility required to rapidly put an end to the crisis and spare their country of further suffering. At the same time, it should be observed that the Ratsiraka, Ravalomanana and Zafy camps have so far generally signaled their acceptance of the compromise proposals that I presented on 22 January 2010. The Rajoelina camp is alone in not supporting the proposals and has continued to take unilateral measures which cannot but result in additional difficulties.

23. As emphasized by the 14th Ordinary Session of the Assembly of the Union, it is imperative to speedily put an end to the current crisis and re-establish constitutional order. The persistent crisis not only exacerbates the tension in Madagascar with the risk that the prevailing situation may undermine the long- term stability and the preservation of civil peace; the crisis also has resulted in serious deterioration of the socio-economic conditions in Madagascar. All economic sectors in the country have been negatively affected. Too many Malagasy citizens have lost their jobs or have been laid off, particularly following the suspension by the United States of America of the application of the African Growth and Opportunity Act. It is obvious, moreover, that socio-economic situation will worsen should the European Union, the first economic partner of Madagascar, decide to suspend its aid, which stands at around Euros 630 million, especially in view of the fact that official development assistance accounts for 75 per cent of the investment budget of the State of Madagascar.

24. The speedy resolution of the crisis in Madagascar and the restoration of constitutional order is vital for the African Union especially because it is high time that the Continent decided to definitively turn over the page of coups d'Etat and other forms of unconstitutional changes. The decision on the prevention of unconstitutional changes of Government and stregnthening AU's capacity to manage such situations is significant in this regard [Assembly/AU/ Dec.269(XIV)]. That decision articulates a global approach to the issue of unconstitutional change of Government, based "zero tolerance" for coups d'Etat and for violations of democratic norms, the persistence and repetition of which could result in unconstitutional changes. It also significantly strengthens the sanctions applicable in the event of unconstitutional change and provides, in particular, for non-participation of authors of such change in elections organized to re-establish constitutional order, the imposition of economic sanctions and total diplomatic isolation, including through concerted action to contest the accreditation of the concerned *de facto* authorities vis-à-vis non-African international organizations.

25. In this connection, I would like to, once again, make an urgent appeal to the *de facto* authorities to respond positively to the proposals presented and place the interest of Madagascar above all other considerations. I call on the authorities to be fully cognizant of AU's determination to re-establish legality in Madagascar and to ensure compliance with the Agreements concluded. In the event of positive response, the Commission, in collaboration with the Head of SADC Mediation Team, will convene a meeting of the *chefs de file* of the political camps to harmonize their positions, resolve every other outstanding issues and thus pave the way for effective implementation of the Maputo Agreement and the Addis Ababa

Additional Act. I express the wish that the meeting of the ICG-M scheduled for 18 February 2010 will be crowned by huge support to the action led jointly by the AU and SADC for the return of constitutional order in Madagascar.

26. I intend to brief Council within two weeks to update it on the evolving situation and every other development, with the view to enabling it, if need be, to take the required measures. In the meantime, it is needful that Council re-affirms its determination to leave nothing undone to speed up the re-establishment of constitutional order in Madagascar, including through imposition of sanctions against the *de facto* authorities in Madagascar and all individuals and entities, action of which contributes to the maintenance of the unconstitutional *status quo*.

27. I would like to express gratitude to all partners of the African Union, in particular members of the Contact Group for their unfailing support for the efforts deployed by AU. I urge them to persevere in this direction.

Annex II to the letter dated 4 March 2010 from the Chargé d'affaires a.i. of the Permanent Observer Mission of the African Union to the United Nations addressed to the President of the Security Council

[Original: English and French]

Communiqué of the 216th meeting of the Peace and Security Council concerning Madagascar

The Peace and Security Council of the African Union (AU), at its 216th meeting held on 19 February 2010, adopted the following decision on the situation in the Republic of Madagascar:

Council,

1. **Takes note** of the Report of the Chairperson of the Commission on the situation in Madagascar [PSC/PR/2(CCXVI)], as well as the briefings provided by President Joaquim Chissano, Head of the SADC Mediation Team, representatives of SADC, the United Nations, the International Organization of *La Francophonie* and the European Union;

2. **Recalls its previous** decisions and statements on the situation in Madagascar, as well as the decisions adopted by the 14th Ordinary Session of the Assembly of the Union held in Addis Ababa from 31 January to 2 February 2010, and its commitment to the Maputo Agreements of 8 and 9 August 2009 and the Addis Ababa Additional Act of 6 November 2009, which provide the appropriate framework to restore constitutional order and achieve a comprehensive solution to the crisis in Madagascar. Council **notes** the communiqué of the 5th meeting of the International Contact Group on Madagascar (ICG-M), held in Addis Ababa on 18 February 2010;

3. **Expresses its full support** to the proposals for compromise solutions submitted to the Malagasy parties by the Chairperson of the Commission during his visit to Antananarivo, on 21 and 22 January 2010, with a view to facilitating the resumption of the implementation process of the Maputo Agreements of 8 and 9 August 2009 and the Addis Ababa Additional Act of 6 November 2009;

4. **Notes** that the Ratsiraka, Ravalomanana and Zafy camps have expressed their general agreement with the proposed compromise solutions submitted by the Chairperson of the Commission, while the reaction of the Rajoelina camp does not conform to these proposals. Council **also notes with concern** the adoption, in December 2009, by the *de facto* authorities borne out of the unconstitutional change, of a series of unilateral measures relating to the conduct of the Transition, including the repeal of the Transition Charter, which was unanimously agreed to in Maputo, and the dismissal of the consensus Prime Minister, Eugène Mangalaza, appointed pursuant to the Maputo Agreements and reconfirmed in his post by the Addis Ababa Additional Act;

5. **Encourages** the Chairperson of the Commission, in close collaboration with the Head of the SADC Mediation Team, to pursue, in the most appropriate manner and in the shortest time, the efforts already undertaken to overcome the current impasse on the basis of the compromise solutions that he has submitted;

6. **Strongly demands** the *de facto* authorities borne out of the unconstitutional change of Government to formally accept, by 16 March 2010, the Maputo Agreements of 8 and 9 August 2009 and the Addis Ababa Additional Act of 6 November 2009, and to revoke any domestic legal instrument which contains contrary stipulations;

7. **Recalls** paragraph 12 of decision Assembly/AU/Dec.279 (XIV) on the situation in Madagascar adopted by the 14th Ordinary Session of the Assembly, requesting Council to meet in due course to review the situation and take the required decisions in light of the relevant AU instruments;

8. **Decides**, in light of the relevant instruments of the AU, including the Lomé Declaration of July 2000 and decision Assembly/AU/Dec.269 (XIV) Rev. 1 on Unconstitutional Changes of Government and the Strengthening of the Capacity of the AU to Manage such Situations, adopted by the 14th Ordinary Session of the AU Assembly, as well as the Conclusions of the Peace and Security Council Retreat held in Ezulwini, Swaziland, from 17 to 19 December 2009, as adopted by the 213rd meeting of Council held on 22 December 2009, that, if by 16 March 2010, the *de facto* authorities borne out of the unconstitutional change do not comply with the full and timely implementation of Maputo Agreements and the Addis Ababa Additional Act, the following sanctions shall be applied, starting from 17 March 2010:

(i) travel ban against all members of the institutions set up by the *de facto* authorities borne out of the unconstitutional change and all other individuals members of the Rajoelina camp whose actions impede the AU and SADC efforts to restore constitutional order. In this respect, Council **decides** that these measures shall be without prejudice to exemptions that it may decide to grant, on a case-by-case basis, at its own initiative or upon request, on humanitarian grounds or for requirements linked to the negotiations for a way out of the crisis, as determined by Council on the basis of the Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union in Situations of Unconstitutional Changes of Governments in Africa;

(ii) the freezing of funds, other financial assets and economic resources of all individuals and entities contributing, in one way or another, to the maintenance of the unconstitutional *status quo* and impeding the AU and SADC efforts to restore constitutional order. In this respect, Council **decides** that these measures shall be without prejudice to exemptions that it may grant, at its own initiative or upon request, to facilitate basic needs and expenses, as determined by Council on the basis of the Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union in Situations of Unconstitutional Changes of Governments in Africa;

(iii) the diplomatic isolation of the de facto authorities borne out of unconstitutional change, through concerted action by Member States to challenge the participation of the representatives of these *de facto* authorities in the activities of non-African international organizations, including the United Nations and its agencies and other concerned bodies;

9. **Requests** the Commission to establish, in close collaboration with SADC, the list of the individuals and entities referred to in paragraph 8 (i and ii) of this decision, for communication, if necessary, to AU Member States and partners, and to take all other necessary steps for the implementation of sanctions imposed in paragraph 8 of this decision, including the diplomatic isolation of the *de facto* authorities borne out of the unconstitutional change in international forums, and **emphasizes**, in this regard, the crucial role of African Groups, including those in New York and Geneva;

10. **Calls upon** all Member States to extend their full cooperation towards the implementation, if necessary, of the sanctions imposed in paragraph 8 of this decision and **recalls**, in this respect, the

obligations of all Member States in accordance with Article 7 (2, 3 and 4) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union;

11. **Urges** all multilateral AU partners, especially the United Nations, the European Union and other international organizations, as well as bilateral partners, including the permanent members of the United Nations Security Council, to fully and unreservedly support the present decision. Council **underlines** the high importance the AU attaches to this issue and the need for the AU partners to refrain from any action which could undermine the efforts of the African Union and send different signals to the authors of the unconstitutional change in Madagascar, thereby undermining the democratization processes in which AU Member States have embarked upon. Council **requests** the Commission to monitor this issue and to report on any developments relating thereto;

12. **Further requests** the Chairperson of the Commission, in close collaboration with the Head of the SADC Mediation Team, to monitor and to ensure the implementation of all aspects of this decision, in accordance with the timetable provided in the Maputo Transition Charter, which provides for the completion of the transition by November 2010, and to report on the evolution of the situation;

13. **Decides** to remain seized of the matter.

Annex III to the letter dated 4 March 2010 from the Chargé d'affaires a.i. of the Permanent Observer Mission of the African Union to the United Nations addressed to the President of the Security Council

[Original: English and French]

Communiqué of the 216th meeting of the Peace and Security Council concerning the Niger

The Peace and Security Council of the African Union (AU), at its 216th meeting held on 19 February 2010, adopted the following decision on the situation in the Republic Niger:

Council:

1. **Takes note** of the briefing made by the Commission on the situation in Niger,

2. **Condemns** the seizure of power by force that took place in Niger on 18 February 2010;

3. **Recalls** Decision PSC/AHG/COMM 2(CCVII) adopted at its 207th meeting held in Abuja on 29 October 2009, through which it endorsed the decisions on the situation in Niger as adopted by the Extraordinary Summit of ECOWAS held in Abuja on 17 October 2009, as well as the relevant paragraph of the decision on the report of the Peace and Security Council of the African Union on its Activities and the State of Peace and Security in Africa, adopted by the 14th Ordinary Session of the Assembly of the Union, held in Addis Ababa from 31 January to 2 February 2010 ;

4. **Stresses** that the relevant AU instruments systematically condemn any unconstitutional change of Government, **demands** the speedy return to constitutional order based on democratic institutions and **affirms** the readiness of the AU, in close collaboration with ECOWAS, to facilitate such a process. In this respect, Council **endorses** the communiqué issued by the Chairperson of the Commission on 19 February 2010;

5. **Decides**, in accordance with the relevant legal instruments of the AU, to suspend the participation of Niger in all activities of the African Union until the effective restoration of constitutional order in the country, as it existed before the referendum of 4 August 2009;

6. **Reiterates its appreciation and strong support** for the efforts of ECOWAS, particularly through the mediation led by General Abdulsalami Abubakar, aimed at facilitating the early resolution of the crisis in Niger and the democratic functioning of the institutions of the country, with the participation and support of all the political forces, and **encourages** it to pursue its action. Council **urges** AU partners to extend their full support to ECOWAS efforts;

7. **Stresses,** in the current context, the importance and relevance of the decision adopted by the 14th Ordinary Session of the Assembly of the Union on the Prevention of Unconstitutional Changes of Government and Strengthening of the Capacity of the AU to Manage such Situations, which is based on zero tolerance of coups d'Etat, but also of the violations of democratic norms, the persistence and recurrence of which could result in unconstitutional changes;

8. **Welcomes the mission** that the Commissioner for Peace and Security of the African Union intends to immediately undertake to Niamey, together with the President of the ECOWAS Commission and the Special Representative of the United Nations Secretary-General for West Africa, and **looks forward** to the report on the results of this mission;

9. **Decides** to remain seized of the situation.

United Nations S/2010/118

Security Council

Distr.: General
5 March 2010

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Letter dated 24 February 2010 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith a letter dated 24 February 2010 addressed to you by Mr. Ahmad bin Abdullah Al-Mahmoud, Minister of State for Foreign Affairs of the State of Qatar (see annex), with its enclosure, the Framework Agreement to Resolve the Conflict in Darfur between the Government of the Sudan and the Justice and Equality Movement Sudan, which was signed on 23 February 2010 in Doha, Qatar.*

I would highly appreciate the transmission of the present letter and its enclosure to the President of the Security Council, and its issuance as a document of the Council.

(*Signed*) Nassir Abdulaziz **Al-Nasser**
Ambassador
Permanent Representative

* The text transmitted by the Minister of State for Foreign Affairs of Qatar is also circulated in document S/2010/98.

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Annex to the letter dated 24 February 2010 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General

[Original: Arabic]

On behalf of myself and Mr. Djibril Bassole, the joint African Union-United Nations Chief Mediator for Darfur, I would like to extend to you our sincerest greetings.

It is our pleasure to transmit herewith to Your Excellency a copy of the Framework Agreement to Resolve the Conflict in Darfur concluded between the Government of the Sudan and the Justice and Equality Movement, done at Doha on Tuesday, 23 February 2010, in the Arabic and English languages. We would also like to inform you that, on the day following signature, we began meeting with the parties in order to develop the mechanism required for the implementation of the Agreement, and the ceasefire in particular.

We would like to express our thanks and appreciation for your support, concern and positive statements, which are certain to have a positive impact on the efforts to achieve peace in Darfur.

(*Signed*) Ahmad bin Abdullah **Al-Mahmoud**
Minister of State for Foreign Affairs
Member of the Cabinet

Enclosure

[Original: Arabic and English]

Framework Agreement to Resolve the Conflict in Darfur between the Government of Sudan (GOS) and the Justice and Equality Movement Sudan(JEM)

Preamble:

The Government of Sudan (GOS) and the Justice and Equality Movement Sudan (JEM), within the framework of their genuine commitment to find a lasting solution to the conflict in Darfur, and being convinced of the imperative need to conclude an inclusive peace agreement which puts an end to the tragedy in Darfur, and in culmination of the great efforts which the Qatari leadership has been exerting, under the kind auspices of His Highness Sheikh Hamad bin Khalifa Al-Thani, Emir of the State of Qatar, and as a further consolidation to the diligent efforts of the international Joint Mediation,

In accordance with the United Nations' Principles and Charter, and the treaties of the African Union, the League of Arab States and the Community of the Sahel and Sahara States relating to settlement of disputes by peaceful means.

Being keen to achieve a just and durable peace to the entire national Sudanese territories, particularly to the Darfur region, and to maintain the Unity of Sudan.

Being desirous to work towards a balanced development to the Sudanese nation which relies on the diversity and idiosyncrasy of the different Sudanese regions with a view to ensuring socio-economic progress for all, and full exercising of fundamental freedoms, based on equality among citizens,

Taking into consideration the Interim Constitution of the Republic of the Sudan, the Comprehensive Peace Agreement (CPA) signed in Naivasha in January 2005, and the Agreement of Good Will and Confidence Building for the settlement of the problem in Darfur, signed in Doha on 17 February 2009 between the Government of National Unity and the Justice and Equality Movement Sudan, and

Convinced of the genuine desire shown by the Government of Sudan (GOS) and the Justice and Equality Movement Sudan (JEM),

The Government of Sudan (GOS) and the Justice and Equality Movement Sudan (JEM) have agreed on the following:

Article (1)

- Announcement of a ceasefire and the immediate initiation of negotiations in order to agree on the enforcement of the same.

Article (2)

- Issuance of a general amnesty for the civil and military members of the Justice and Equality Movement Sudan (JEM), and the release of the war prisoners and convicted persons from both sides, after the final singing of this Agreement.

Article (3)

- Participation of the Justice and Equality Movement Sudan in power at all levels of governance in accordance with an approach to be agreed upon by the two sides.

Article (4)

- The Justice and Equality Movement Sudan (JEM) shall immediately be transformed into a political party upon signing the comprehensive and final peace agreement.

Article (5)

- Integration of the forces of the Justice and Equality Movement Sudan in the Armed Forces and the consolidated Security and Police Forces according to what is agreed on by the two parties, this procedures shall be preceded by deploying and training these forces in such locations and according to such a mechanism as to be agreed upon by the two parties.

Article (6)

- The Government of Sudan (GOS) shall bear all necessary expenses of the Forces of the Justice and Equality Movement Sudan (JEM) during the deployment and training period thereof.

Article (7)

- All military and civil personnel of the Equality and Justice Movement Sudan fired from service shall be reinstated to their equal ranks in such a manner as to be agreed upon by the two parties.

Article (8)

- The Government of Sudan (GOS) shall commit itself to fairly compensate the refugees, and displaced persons and all those who have been affected by the conflict in Darfur and shall also commit itself to ensuring the right of voluntary return for the refugees and displaced persons to their original areas and establish service providing institutions and infrastructure with a view to securing a decent life for them.

Article (9)

- The issue of administrative reorganization in Darfur shall be subject to negotiation between the two parties with a view to concluding a final agreement.

Article (10)

- The issue of wealth-sharing shall be subject to negotiation between the two parties with a view to concluding a final agreement. Also, the same applies to issues of land and (Hawakir) and any other issues conducive to peace and deemed to be necessary by the parties for the completion of issues of a global peace agreement.

Article (11)

- The implementation of this agreement between the two parties shall be based on goodwill and be established on the basis of solidarity and political partnership in line with principles and national issues that unite the two parties.

Article (12)

- The final Agreement and the additional protocols enforcing it shall be prepared, negotiated and signed in Doha before the fifteenth of March 2010.

Done in the Qatari Capital, Doha, on 23 February 2010

For the
Government of Sudan
(GOS)

Dr. Amin Hassan Omer
Minister of State, Ministry of Culture,
Youth and Sports

For the
Justice and Equality Movement Sudan
(JEM)

Ahmed Mohammed Togud Lissan
Secretary for Negotiations and Peace
Affairs

Witnessed by,

For the State of Qatar

Ahmed bin Abdulla Al-Mahmoud
Minister of State for Foreign Affairs
and Member of the Cabinet,

For the AU-UN Mediation

Djibril Yipènè Bassolé
Joint Chief Mediator